IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

CIVIL APPLICATION NO. 1698 OF 2005

IN

WRIT PETITION NO. 4277 OF 2003

Yogesh Madhukar Babar .....**Plffs.**
vs.
Sou. Varsha Yogesh Babar .....**Defnds.**

Smt. P.R. Ghorpade and Abhaykumar Apte
for the petitioner.
Shri Uday P. Warunjikar for respondent no.1.

CORAM: S.U. KAMDAR, J.

DATE : 12th January,2006.

P.C. :.

1. By the present Civil Application the petitioners are seeking that the delay for payment of cost of Rs.64,000/- be condoned and that the order and judgment in Writ petition no. 4277 of 2003 be restored.

2. By consent of the parties the following order

is passed :

3. The petitioner who is in arrears of in excess of Rs.2,75,000/- towards maintenance will make payment as under :

4. The petitioner will pay Rs.75,000/- within two weeks from today. Further sum of Rs.1,00,000/- within six weeks thereafter and additional sum of Rs.1,00,000/- to be paid within 6 weeks from the date of the deposit of Rs.1,00,000/- as provided hereinabove.

5. It is made clear that this payment of Rs.2,75,000/- is towards the arrears of maintenance; and if there is any further amount due and payable either towards the arrears of maintenance or travelling expenses then the respondent will be at liberty to adopt appropriate legal proceedings in the trial court for the recovery of the said amount. The time to pay the cost of Rs.7500/- as provided by the learned Single Judge in Writ Petition no. 4277 of 2003 is

condoned. Learned counsel for the petitioner states that the amount of Rs.7500/- is already been deposited in the Trial court. The respondent will be entitled to withdraw the said amount. The amount of Rs.2,75,000/- as mentioned hereinabove to be paid directly to the respondent herein. If the aforesaid amount is paid, then the application being Exhibit-20, 25 and 26 pending before the trial court to stand dismissed and the trial court to proceed with the matter on its own merits. In an event if there is non-compliance of the present order the present Civil Application to stand dismissed and all the three Applications being Exhibit-20, 25 and 26 will be deemed to have been made absolute. It is made clear that no further extension of time will be granted either in payment of instalment amounts. The order of dismissal of the present Application shall come into operation on default of any of the instalments by the petitioner.

6. I further direct the trial court to dispose off the main petition no. 157 of 2002 pending

before the Civil Judge Senior Division, Pune within a period of six months from the date of the last instalment paid. The Civil Judge Senior Division, Pune will take up the hearing of the main application only after all the instalments are paid. If any of the instalments are not paid the Civil Judge Senior Division to proceed on the basis that applications Exhibits 20, 25 and 26 are made absolute.

7. The application for modification of the maintenance amount will be taken up by the trial court only after the aforesaid instalments are paid. However the petitioner will not be liable to make payment of further maintenance till either there is a default committed of either of the instalments or till the matter is decided by the Trial court afresh as per the direction of Khanwilkar, J. It is made clear that if there is default in payment the order of Khanwilkar, J will stand vacated and the entire maintenance amount will be liable to be paid by the petitioner to the respondent herein.

sd/-

(S.U. KAMDAR, J)